

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

MARY MAURICE ROWLAND
2490 Willow Road
Arroyo Grande, CA 93420

Applicant for Vocational Nurse License

Respondent.

Case No. VN-2006-657

OAH No. 2008080075

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled matter.

This Decision shall become effective on March 25, 2009.

IT IS SO ORDERED this 23th day of February, 2009.



John P. Vertido, I.V.N.
President

BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

MARY MAURICE ROWLAND,

Respondent.

Case No. VN-2006-657

OAH Case No. L2008080075

PROPOSED DECISION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in San Luis Obispo, California, on November 14, 2008.

Michael A. Cacciotti, Deputy Attorney General, represented Complainant, Teresa Bello-Jones, J.D., M.S.N., R.N.

Gael G. Mueller represented respondent.

Complainant seeks to deny respondent's application for licensure as a vocational nurse on the bases of two convictions, her failure to disclose one of the convictions, and the conduct underlying the convictions. Respondent presented evidence in mitigation and rehabilitation in support of licensure.

Oral and documentary evidence was received at the hearing and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant filed the Statement of Issues in her official capacity as Executive Officer, Bureau of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs (Board).

2. In 1993, respondent completed a two-year nursing program at the College of Southern Idaho, and was licensed as a licensed practical nurse, the equivalent of a licensed vocational nurse. Her Idaho license is still active.

3. a. On August 17, 2006, respondent filed an application for licensure as a vocational nurse. On September 26, 2006, the Bureau notified respondent that she had to complete a form entitled "Record of Conviction." Question number 7 in the form asked: "Have you been 'convicted' of any offense, including traffic violations." Highlighted text below the question stated that misdemeanors as well as felonies had to be disclosed, even if expunged. On the back of the document, applicants were informed that they did not have to list traffic convictions where the fine was less than \$500. Respondent checked the "no" box, and failed to provide any details or information about the conviction set forth in factual finding number 4.

b. Respondent's statement that she had not been convicted was false, as she had suffered the conviction set forth in factual finding 4. Inasmuch as respondent intended to answer the question in the negative, respondent knowingly failed to disclose the conviction.

c. Respondent explained that she did not disclose the conviction because the judge in Idaho, before whom she appeared without an attorney, told her that the conviction would be taken off her record after an unspecified period. Her explanation does not excuse her failure to disclose the conviction, as the question clearly indicated that even expunged convictions had to be disclosed. Nevertheless, respondent's failure to disclose the conviction is a negligent act, not an intentional one, and thus does not involve dishonesty.

4. a. On June 13, 2006, in the District Court, Fifth Judicial District, County of Twin Falls, State of Idaho, in case number CR-2006-0003171, respondent was convicted, on her plea, of violating Idaho Vehicle Code section 18-2004 (driving under the influence), a misdemeanor. The court sentenced respondent to 90 days in county jail, with credit for one day, suspended the sentence, and placed respondent on probation for 12 months on terms and conditions that included supervision by a probation officer for the first three months, suspension of her driving privilege for 90 days, and payment of \$462.50 in fines and fees.

b. The facts and circumstances surrounding the conviction are that, on April 23, 2006, at approximately 9:02 a.m., respondent was stopped by a police officer after driving erratically. Respondent had not been drinking alcoholic beverages, which was confirmed by breath and urine analysis. However, respondent was arrested as her speech was slurred and she could not perform any of the field dexterity tests administered by the peace officer. Respondent had taken a prescription medication for her migraine headaches, Soma, which can have side effects consistent with her behavior and symptoms. She had not eaten for two days, which may have exacerbated the symptoms.

5. a. On August 10, 2007, in the Superior Court, Metropolitan Justice Building Division, County of Kern, State of California, in case number J241481, respondent was convicted, on her plea of nolo contendere, of violating Vehicle Code section 23103.5, subdivision (a) (reckless driving while under the influence), a misdemeanor. The court suspended imposition of sentence and placed respondent on bench probation for three years on terms and conditions that included service of two days in county jail, with credit for two days, and payment of a \$975 fine. No substance-related conditions were imposed.

b. The circumstances surrounding the conviction are as follows. On September 6, 2006, while driving at approximately 3:42 p.m., respondent swerved to avoid hitting a vehicle and instead ran into a pole. The arresting officer noticed that her speech was slurred and her eyes were droopy. She was having difficulty standing and maintaining her balance. Respondent was unable to perform the two field sobriety tests the officer attempted to administer, and the officer stopped administration after concluding respondent was too unstable to complete the tests. Respondent appeared like she would fall asleep. Respondent had not ingested any alcoholic beverages, but had taken two prescription medications for her migraine headaches, Imitrex and Topamax about four hours earlier.

6. The convictions set forth in factual finding numbers 4 and 5, on their face, are substantially related to the duties, qualifications, and functions of a vocational nurse.

7. Respondent has suffered from migraine headaches for approximately 20 years, since she was 34 years old. A physician in Idaho prescribed Soma for the condition about two weeks before the 2006 arrest. Respondent was not told that she should not drive vehicles when taking the medication. She stopped taking Soma after the arrest, and returned to the clinic for a substitute. She received samples of Topamax and was told to take 25 milligrams three times each day. She was not warned about potential blurred vision, lack of coordination, loss of balance, or forgetfulness as potential side effects of the medication. She did not notice any significant side effects, except for some forgetfulness, and had been taking the medication for four months when she was involved in the accident in Bakersfield. The medications had been prescribed at specific intervals to prevent severe migraine attacks.

8. Manufacturer information warns about the following pertinent potential side affects: eye problems, including decrease in vision; adverse effects on thinking skills and alertness, causing confusion, tiredness, and sleepiness; and dizziness or loss of muscle coordination. Respondent had read the pharmacy materials provided with the medications, but did not realize the gravity of the side effects and dismissed them as not likely to affect her. She had not noticed any actual vision impairment, dizziness, or imbalance before the accident in Bakersfield.

9. Respondent no longer takes Soma or Topamax. She does not take any medications prophylactically. She takes extra strength Ibuprofen and, when the headaches are debilitating, which occurs about twice each month, she stays home and takes Imitrex.

10. Respondent worked as a licensed practical nurse at a rehabilitation center for 10 years before moving to California in 2006. Her last steady employment was from December 2006 to October 2007 at a convalescent home. Her employer expected to employ her as a licensed vocational nurse and kept her as a ward clerk, but let her go as the licensure process dragged on. Respondent performs odd jobs and relies on the support of family and friends.

LEGAL CONCLUSIONS

1. Cause exists to deny respondent's application pursuant to Business and Professions Code sections 480, subdivision (a)(1), 493, 2866, subdivision (d), and 2878, subdivisions (a) and (f), and California Code of Regulations, title 16, section 2521, in that she was convicted of crimes substantially related to the qualifications, functions, and duties of a licensed vocational nurse, by reason of factual finding numbers 4 through 6.

2. Cause exists to deny respondent's application pursuant to Business and Professions Code section 480, subdivision (c), in that she knowingly made a false statement of fact in the application for licensure, by reason of factual finding numbers 3 and 4.

3. Cause does not exist to deny respondent's application pursuant to Business and Professions Code section 2878, subdivision (j), because she did not engage in conduct involving dishonesty, by reason of factual finding number 3.

4. Cause does not exist to deny respondent's application pursuant to Business and Professions Code section 2878.5, subdivision (b), because it was not established that she used dangerous drugs to an extent or in a manner that was dangerous to herself or others, by reason of factual finding numbers 4 through 9. She took medication in accordance with the prescriptions, and unfortunately, was unaware of the escalating side effects before her arrest.

5. All evidence offered in mitigation and rehabilitation has been considered. Respondent was not engaged in the consumption of alcoholic beverages or controlled substances at the time of the arrests. She had taken prescription medications and was not aware of the serious side effects that ensued until it was too late. Respondent now recognizes the serious potential side effects and has stopped taking the medications. She has also stopped driving if the migraine headaches are severe. She worked as a licensed vocational nurse for ten years and there is no evidence of any problem with the care she provided her patients. Accordingly, denial of the license is not required for the protection of the public. However, because the convictions are recent and since respondent stopped taking Soma and Topamax in the relatively recent past, a period of routine monitoring is warranted. The order that follows is necessary and sufficient for the protection of the public.

ORDER

Respondent's application for licensure as a licensed vocational nurse is granted. However, the license issued pursuant to this order shall immediately be revoked, which order of revocation shall be stayed and respondent's license placed on probation for three years on the following conditions:

1. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within

five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprint cards were previously submitted by the respondent. Respondent shall also submit a recent 2" x 2" photograph of herself within thirty (30) days of the effective date of the decision.

2. COMPLIANCE WITH PROBATION PROGRAM. Respondent shall fully comply with the conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program. Upon successful completion of probation, respondent's license will be fully restored.

3. SUBMIT WRITTEN REPORTS. Respondent shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verifications as required by the Board or its representatives. These reports or declarations shall contain statements relative to respondent's compliance with all the conditions of the Boards Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

In the first report, respondent shall provide a list of all states and territories where she has ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse. Respondent shall provide information regarding the status of each license and any change in license status during the period of probation. Respondent shall inform the Board if she applies for or obtains a new nursing or psychiatric technician position during the period of probation.

Respondent shall provide a copy of the Board's decision to the regulatory agency in every state and territory in which she has applied for or holds a vocational/practical nurse, psychiatric technician and/or registered nurse license.

4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S). Respondent shall notify the Board, in writing, within five (5) days of a change in address or telephone number(s). Respondent's failure to claim mail sent by the Board may be deemed a violation of these probation conditions.

5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE. Respondent shall notify the Board, in writing, within five (5) days, if she leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If respondent resides or practices outside of California, the period of probation shall automatically be extended for the time period she resides or practices outside of California. The respondent shall provide written notice to the Board within five (5) days of any change of residency or practice.

Respondent shall notify the Board, in writing, within five (5) days, upon her return to California.

6. MEETINGS WITH BOARD REPRESENTATIVE(S). Respondent shall appear in person at meetings as directed by the Board or its designated representatives.

7. NOTIFICATION TO EMPLOYER(S). When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify her employer of the probationary status of respondent's license. This notification to the respondent's current health care employer shall occur no later than the effective date of the Decision. Respondent shall notify any prospective health care employer of her probationary status with the Board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the Board's Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit to the Board all performance evaluations and any other employment related reports as required by the Board. Respondent shall notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of any such event.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if she is terminated or separated, regardless of cause, from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. EMPLOYMENT REQUIREMENTS AND LIMITATIONS. During probation, the Respondent shall work in her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, Respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

9. SUPERVISION REQUIREMENTS. Before commencing or continuing employment in any health care profession, respondent shall obtain approval from the Board of the supervision provided to the respondent while employed.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

10. COMPLETION OF EDUCATIONAL COURSE(S). Respondent, at her own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation. The coursework shall be in addition to that required for license renewal. The Board shall notify the respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study. Upon successful completion of the course, respondent shall submit "original" completion certificates to the Board within thirty (30) days of course completion.

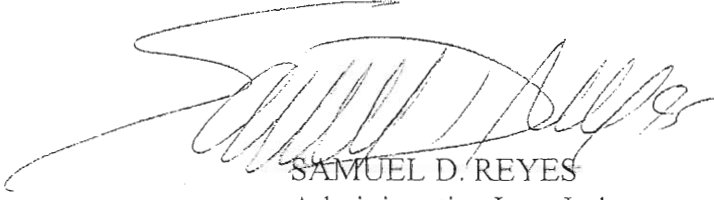
11. MAINTENANCE OF VALID LICENSE. Respondent shall, at all times, maintain an active current license with the Board including any period of suspension. If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the Board. Respondent must complete the licensure process within two (2) years from the effective date of the Board's decision. Should respondent's license expire, by operation of law or otherwise, upon renewal or reinstatement, respondent's license shall be subject to any and all conditions of this probation not previously satisfied.

12. LICENSE SURRENDER. During probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A licensee who surrenders his/her license may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision for the surrender: three (3) years for reinstatement of a license surrendered for any reason other than a mental or physical illness; or one (1) year for a license surrendered for a mental or physical illness.

13. VIOLATION OF PROBATION. If respondent violates the conditions of her probation, the Board, after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline of the respondent's license. If during probation, an accusation or petition to revoke probation has been filed against the respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

DATED: 12/2/08


SAMUEL D. REYES
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHAEL A. CACCIOTTI, State Bar No. 129533
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2932
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **OR ITS SUCCESSOR IN INTEREST,**
11 **THE DEPARTMENT OF CONSUMER AFFAIRS**

12 In the Matter of the Statement of Issues Against:

Case No. VN-2006-657

13 MARY MAURICE ROWLAND
14 350 Third Street North
15 Grover Beach, CA 93433

16 Vocational Nurse Application

17 Applicant/Respondent.

STATEMENT OF ISSUES

18 Complainant alleges:

PARTIES

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
20 Statement of Issues solely in her official capacity as the Executive Officer of the Board of
21 Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

22 2. On or about August 17, 2006, the Board of Vocational Nursing and
23 Psychiatric Technicians, Department of Consumer Affairs received an application for a
24 Vocational Nurse License from Mary Maurice Rowland ("Respondent"). On or about August 15,
25 2006, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,
26 and representations in the application. On or about September 25, 2006, the Board of Vocational
27 Nursing and Psychiatric Technicians ("Board") notified Respondent that it was unable to process
28 her application until she completed, signed and dated a "Record of Conviction" document. On or

1 about September 25, 2006, Respondent submitted a hand-written letter to the Board certifying
2 under penalty of perjury that she had not been convicted of any violations of the law. On or
3 about October 4, 2006, Respondent completed the "Record of Conviction" document and
4 certified under penalty of perjury to the truthfulness of all statements, answers, and
5 representations in the application. The Board denied the application on May 4, 2007.

6 **JURISDICTION**

7 3. This Statement of Issues is brought before the Board of Vocational
8 Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs, under the
9 authority of the following laws. All section references are to the Business and Professions Code
10 unless otherwise indicated.

11 **STATUTORY PROVISIONS**

12 4. Section 480 of the Code states:

13 "(a) A board may deny a license regulated by this code on the grounds that the
14 applicant has one of the following:

15 "(1) Been convicted of a crime. A conviction within the meaning of this section
16 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
17 which a board is permitted to take following the establishment of a conviction may be taken
18 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,
19 or when an order granting probation is made suspending the imposition of sentence, irrespective
20 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

21 . . .

22 "(3) Done any act which if done by a licensee of the business or profession in
23 question, would be grounds for suspension or revocation of license.

24 "The board may deny a license pursuant to this subdivision only if the crime or act
25 is substantially related to the qualifications, functions or duties of the business or profession for
26 which application is made.

27 . . .

28 "(c) A board may deny a license regulated by this code on the ground that the

1 applicant knowingly made a false statement of fact required to be revealed in the application for
2 such license.”

3 5. Section 493 of the Code states, in pertinent part:

4 “Notwithstanding any other provision of law, in a proceeding conducted by a
5 board within the department pursuant to law to deny an application for a license or to suspend or
6 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
7 the ground that the applicant or the licensee has been convicted of a crime substantially related to
8 the qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.”

13 6. Section 2866 of the Code states, in pertinent part:

14 “An applicant for a licensed vocational nurse license shall comply with each of
15 the following:

16 ...

17 “(d) Not be subject to denial of licensure under Section 480.”

18 7. Section 2878 of the Code states, in pertinent part:

19 “The Board may suspend or revoke a license issued under this chapter [the
20 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

21 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

22 ...

23 “(f) Conviction of a crime substantially related to the qualifications, functions,
24 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
25 conclusive evidence of the conviction.

26 ...

27 “(j) The commission of any act involving dishonesty, when that action is related
28 to the duties and functions of the licensee.”

1 8. Section 2878.5 of the Code states:

2 In addition to other acts constituting unprofessional conduct within the meaning
3 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person
4 licensed under this chapter to do any of the following:

5 ...

6 "(b) Use any controlled substance as defined in Division 10 of the Health and
7 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an
8 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,
9 or to the extent that the use impairs his or her ability to conduct with safety to the public the
10 practice authorized by his or her license.

11 9. California Code of Regulations, title 16, section 2521, states:

12 “ For the purposes of denial, suspension, or revocation of a license pursuant to
13 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
14 act shall be considered to be substantially related to the qualifications, functions or duties of a
15 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
16 licensed vocational nurse to perform the functions authorized by his license in a manner
17 consistent with the public health, safety, or welfare.”

18 **FIRST CAUSE FOR DENIAL OF APPLICATION**

19 **(Substantially Related Criminal Convictions)**

20 10. Respondent’s application is subject to denial pursuant to Sections
21 480 subdivision (a), 493, 2878 subdivisions (a) and (f), 2866 subdivision (d) of the Code, and
22 California Code of Regulations, title 16, section 2521, in that Respondent was convicted of
23 crimes substantially related to the qualifications, duties and functions of a licensed vocational
24 nurse as set forth below.

25 ///

26 ///

27 ///

28 ///

1 a. On or about June 13, 2006, in the case entitled *The State of Idaho*
2 *v. Mary Marice Rowland*^{1/} (District Court, Fifth Judicial District of the State of Idaho, County of
3 Twin Falls, Case No. CR-2006-0003171), Respondent was convicted by the Court on a plea of
4 guilty to one count of violating Idaho State Vehicle Code section 18-8004, (driving under the
5 influence of drugs or alcohol). The circumstance of that conviction are as follows:

6 1.) On or about April 23, 2006, Respondent was stopped by
7 Idaho State Trooper Keith T. Thompson, because she was observed “swerving all over the road”
8 and almost forcing a vehicle with a trailer off the road with her vehicle. While questioning
9 Respondent, the officer noticed that she was totally disoriented and had trouble talking. When
10 Officer Thompson asked Respondent if she had been drinking or taking drugs, she replied “no”.
11 Officer Thompson observed that her voice was very slurred, she had trouble balancing herself
12 during the field sobriety test and she was unable to tell the officer where she was going.
13 Respondent was arrested on the scene for driving under the influence and transported to Twin
14 Falls County Jail. While Respondent was in custody she did admit to taking a painkilling drug
15 called “Soma” for migraine headaches prior to getting in her car to drive.

16 b. On or about August 10, 2007, in the case entitled *The People of the*
17 *State of California v. Mary Maurice Rowland* (Superior Court, Metropolitan Justice Building,
18 County of Kern, Case No. BM699316A), Respondent was convicted by the Court on her plea of
19 nolo contendere of violating Vehicle Code section 23101.5(a), (reckless driving related to
20 alcohol or drugs, commonly known as a “wet reckless”). The circumstance of that conviction are
21 as follows:

22 1.) On or about September 6, 2006, Respondent was involved
23 in a traffic collision where she hit a pole. Both of the passengers in the vehicle that Respondent
24 was driving received bodily injury. One passenger, Respondent’s elderly mother, reported that
25 she sustained multiple injuries, including fractured ribs. When Bakersfield Police Officer Daniel
26

27 1. Respondent’s middle name was spelled without the “u” in the certified conviction
28 records for this case.

1 Wells arrived on the scene he made contact with Respondent. Respondent told Officer Wells
2 that she had attempted to make a left turn when another vehicle cut her off causing her to swerve
3 into a pole. While speaking with Respondent, the officer noticed that her speech was “very
4 thick” and slurred, and her eyes were very droopy. Officer Wells also noticed, while speaking
5 with Respondent, that she was having difficulty standing and was “swaying approximately two to
6 three inches in all directions.” Respondent admitted to taking prescription drugs that day called
7 Imitrex and Topox. She was given several field sobriety tests, all of which she failed. At the
8 conclusion of Officer Wells’s investigation he determined that Respondent was driving under the
9 influence of prescription medication. Respondent was placed under arrest and transported to the
10 Kern County Jail.

11 **SECOND CAUSE FOR DENIAL OF APPLICATION**

12 **(False Statement of Fact)**

13 11. Respondent's application is subject to denial under Code sections 480,
14 subdivision (c) and 2878 subdivision (j), in that Respondent made a false statement of fact when
15 she stated in her letter to the Board dated September 25, 2006, under penalty of perjury, that she
16 had never been convicted of a criminal offense, felony or misdemeanor. Further, in response to
17 the question, “Have you ever been ‘convicted’ of any offense, including traffic violations?”
18 included on the “Record of Conviction” document required for the processing of an applicant’s
19 application for vocational nurse licensure, Respondent answered, “No”. In fact, Respondent had
20 been convicted of a crime at the time she wrote the letter and at the time she completed the
21 “Record of Conviction” form, as set forth in paragraph 10, subparagraph (a) above.

22 **THIRD CAUSE FOR DENIAL OF APPLICATION**

23 **(Use of a Dangerous Drug)**

24 12. Respondent’s application is subject to denial under section 2878.5,
25 subdivision (b), on the grounds of unprofessional conduct, in that Respondent administered to
26 herself dangerous drugs to an extent and in a manner that was dangerous to herself and both
27 dangerous and injurious to other persons, as set forth more fully in paragraph 10, subparagraphs
28 (a) and (b) above.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians, issue a decision:

- 5 1. Denying the application of Mary Maurice Rowland for a Vocational Nurse
6 licensure;
7 2. Taking such other and further action as deemed necessary and proper.
8

9 DATED: June 19, 2008 APPROVED

10
11 

12 TERESA BELLO-JONES, J.D., M.S.N., R.N.
13 Executive Officer
14 Board of Vocational Nursing and Psychiatric Technicians
15 State of California
16 Complainant

15 LA2007601433
16 (pvk 9/25/2007)
17 60294696.wpd
18
19
20
21
22
23
24
25
26
27
28